

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 700

[Docket No. 070824479-8107-02]

RIN 0648-AV53

Magnuson-Stevens Act Provisions; Environmental Review Process for Fishery Management
Actions

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric
Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: This proposed rule would revise and update the NMFS procedures for complying with the National Environmental Policy Act (NEPA) in the context of fishery management actions developed pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (MSA). These regulations are modeled on the Council of Environmental Quality (CEQ) regulations implementing the procedural provisions of NEPA, 40 CFR Parts 1500-1508, with specific revisions to the existing NMFS procedures made pursuant to the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act (MSRA). The procedures are designed to conform to the timelines for review and approval of fishery management plans and plan amendments developed pursuant to the MSA. Further, these procedures are intended to integrate applicable environmental analytical procedures, including the timeframes for public input, with the procedure for the preparation and dissemination of fishery management plans, plan amendments, and other actions taken or approved pursuant to the MSA in order to provide

for timely, clear, and concise analysis that is useful to decisionmakers and the public, reduce extraneous paperwork, and effectively involve the public.

DATES: Comments must be received by 5 p.m., EST, on [insert date 90 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: You may submit comments on this proposed rule or the associated Regulatory Impact Review (RIR), identified by 0648-AV53, by any of the following methods:

- Mail: Alan Risenhoover, Director, Office of Sustainable Fisheries, NMFS, 1315 East-West Highway, SSMC 3, Silver Spring, MD 20910.
- Fax: (301) 713-0596.
- E-mail: NEPAprocedures@noaa.gov. Include in the subject line of the e-mail the following document identifier: "MSA Environmental Review Procedures"
- Federal e Rulemaking portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (e.g., name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

Copies of the Regulatory Impact Review (RIR) prepared for this action may be obtained from Alan Risenhoover at the address above. Requests should indicate whether paper copies or electronic copies on CD-ROM are preferred. This document is also available at the following website: <http://www.nmfs.noaa.gov/msa2007/implementation.htm>.

FOR FURTHER INFORMATION CONTACT: Marian Macpherson at 251-751-0650, email:

Marian.Macpherson@noaa.gov.

SUPPLEMENTARY INFORMATION:

Background

The National Marine Fisheries Service (NMFS) proposes new regulations to establish procedures by which NMFS and the regional Fishery Management Councils (FMCs), established under the Magnuson-Stevens Fishery Conservation and Management Act (MSA), will comply with the National Environmental Policy Act (NEPA) when preparing fishery management actions pursuant to the MSA. NMFS issues this proposed rule to comply with the requirements of § 107 of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act (MSRA), Pub. L. 109-479. NMFS proposes specific provisions in the following areas.

1. Form of documentation: The proposed rule would retain the use of Environmental Assessments (EAs), Findings of No Significant Impact (FONSI), and Categorical Exclusions (CEs) where appropriate, and would establish two new forms of documentation for actions with potentially significant environmental impacts: the Integrated Fishery Environmental Management Statement (IFEMS) and the Memorandum of Framework Compliance.
2. Roles and Responsibilities: This proposed rule would clarify the roles of the FMCs and NMFS in the development and approval of fishery management measures and actions.
3. Timelines and Flow of Process: The proposed rule would build flexibility into the timelines for complying with NEPA in order to allow for compliance with NEPA within an MSA context.
4. Alternatives to be Analyzed: This proposed rule would clarify what “reasonable alternative” and “no action” alternative mean in the context of fishery management.